

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-4449

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GUMESINDO PAZ MEDRANO,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Lacy H. Thornburg, District Judge. (CR-03-111)

Submitted: June 15, 2005

Decided: October 6, 2005

Before WILKINSON and WILLIAMS, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed in part and affirmed in part by unpublished per curiam opinion.

Aaron Edmund Michel, Charlotte, North Carolina, for Appellant.
Thomas Richard Ascik, OFFICE OF THE UNITED STATES ATTORNEY,
Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Gumesindo Paz Medrano appeals his sentence of 188 months of imprisonment imposed after he pled guilty, pursuant to a plea agreement, to one count of conspiracy to possess with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 846 (2000). The Government has moved to dismiss Medrano's appeal based upon a waiver of appellate rights in his plea agreement.

We deny the Government's motion to dismiss. We conclude, however, that Medrano waived the right to proceed with each of his claims on appeal, except his claim of ineffective assistance of counsel. We have reviewed that claim and determine that it does not "conclusively appear[]" on the record that counsel was ineffective. United States v. Richardson, 195 F.3d 192, 198 (4th Cir. 1999) (internal quotation marks omitted). Medrano may raise his ineffective assistance claim in proceedings under 28 U.S.C.A. § 2255 (West Supp. 2005). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED IN PART AND
AFFIRMED IN PART